
Session 5:

Authority of RTO to Address Problems

RTO West Market Monitoring Workshop
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RTO West Market Monitoring Workshop

Session 1: Market Monitoring: Why

Session 2: Who Will Monitor; the RTO's Role

Session 3: Organization and Governance of Monitoring

Session 4: Monitoring Tasks and Process

➔ **Session 5: Authority to Address Problems**

Session 6: Access to, Disclosure of Sensitive Information

Session 7: Market Power Issues

Scope and Focus of Session 5

This session addresses any *pre-approved* RTO authority to:

- Take actions to address market design flaws
- Take actions regarding participant conduct

This authority might be more extensive during a limited start-up period to address unforeseen problems at that time.

“Default” Procedures and Authority

- **Software/hardware/wetware errors:** Make corrections quickly to bring results into compliance with tariff.
- **Market design flaws:** Develop rules changes w/input from stakeholders, obtain required committee and Board approvals, FERC FPA section 205 filing if change to tariff is necessary.
- **Participant conduct:** Attempt to resolve issues informally and voluntarily. If this fails, develop proposed remedies, obtain required RTO approvals, FERC FPA section 205 filing to demonstrate the need for and appropriateness of imposing the proposed remedies.

RTO Additional Authority to Address Design Flaws and Other Start-Up Problems

- Some ISOs have had special authority to address design flaws and other problems during a start-up period (NE, NY); others did not (PJM, CA).
- NYISO has authority to take actions if otherwise a market design flaw would cause reliability to be impaired or prices to reach levels “substantially unrelated” to those that would result absent the flaw. NYISO can recalculate prices, institute other procedures it deems appropriate until it can fix the flaw. *“Temporary Extraordinary Procedures for Correcting Market Design Flaws and Addressing Transition Abnormalities.” (90 days; renewed)*

What Authority Should the RTO Have To Act Quickly Without the Usual Process?

- The potential need: A market design feature or weakness (no tariff violation) creates a gaming opportunity that if not corrected quickly could be very harmful (unfair, costly)
 - Example: PJM minimum run-time bid component, intended to accommodate units with true operational limitations, but resulting in high prices in hours with no scarcity
- What authority should the RTO have for such events?
 - Types of actions: Change non-tariff rules; impose bid or price caps, etc.
 - Actions CEO can take; actions that require RTO Board or other stakeholder committee approval

Types of Market Power Mitigation

- Price caps applicable to all hours, and to many or all markets
 - CA: \$750; PJM: \$1000; NYISO: \$1000 proposed
- Bid caps, with ISO authority to require a bid, applicable to local market power circumstances, perhaps other extraordinary conditions (applied before market closes)
 - CA: Out-of-market calls; PJM: reliability must-run; ISO-NE's Market Rule 17; NYISO: NYC generation
- Authority to prospectively to mitigate a participant's (actual or potential) exercise of market power

Market Power Mitigation Authority of Existing ISOs

- Cal-ISO, PJM: Market monitoring plans permit imposing any corrective actions FERC has authorized, however, neither has sought FERC approval of specific actions (except broad price caps, local market power mitigation).
- ISO-NE: If a pattern of behavior inconsistent with a competitive market is identified, ISO-NE is authorized to impose the least restrictive of the following measures it concludes will be sufficient:
 - Reduce flexibility to change bids
 - Impose default bid based on recent bids or marginal cost
 - Can also negotiate voluntary mitigation measures

Market Power Mitigation Authority of Existing ISOs (cont'd)

- NYISO: FERC has recently approved mitigation measures triggered by specific screens and thresholds (*ER97-1523*)
 - Conduct screens for physical or economic withholding, uneconomic production. Conduct must also cause a “material impact” on prices for mitigation to be imposed.
 - Mitigation involves imposition of a default bid based on recent bids or a penalty for physical withholding.
- FERC had rejected an earlier NYISO proposal, finding that it did not describe with enough specificity the types of conduct that would trigger mitigation and left too much discretion to the ISO to select the type of mitigation.

Other Approaches to Deterring and Mitigating Exercise of Market Power

- Participant complaint-driven (U.S. natural gas industry)
- Statement of ethics, ethics panel (Australia, 1999)
- Generators agree to “good behavior” license conditions; guidelines for enforcing (UK, 2000)
- Agreements between regulator, generators as to level of prices; threat of referral to antitrust agencies (UK, 1990s)

Order 2000 on Authority To Impose Sanctions

- Such authority is not required: “The monitoring plan should indicate whether the RTO will only identify problems and/or abuses or whether it also will propose solutions to such problems.”
- As in NYISO decision, criteria and mitigation must be specific: “...the monitoring plan should clearly identify any proposed sanctions or penalties and the specific conduct to which they would be applied, provide the rationale to support any sanctions, penalties or remedies (financial or otherwise) and explain how they would be implemented.”

Potential Advantages of RTO Mitigation Authority

- Permits acting quickly (no delay for FERC approval)
- Permits acting without involving FERC (however, participant(s) may bring the matter to FERC)
- Specific screens and thresholds define the limits of acceptable behavior and inform the market of them, reducing uncertainty and exercise of discretion (stakeholders were in favor of NYISO's specific screens and thresholds)

Potential Disadvantages of RTO Mitigation Authority

- The screens and thresholds are difficult to define so that they make the right distinctions under all circumstances
 - RTO discretion is likely needed to avoid errors
 - The recently-approved NYISO screens and thresholds, for instance, have several shortcomings that can lead to errors
- Stakeholders are very unlikely to agree on the thresholds
- Issues may end up before FERC all the same

The Trade-Off: Errors vs. Discretion vs. Delay

- Mechanical screens are inevitably simplified and prone to errors (“false positives” for market power and mitigation).
- RTO discretion not to impose mitigation can protect against errors. But discretion creates uncertainty and raises concerns about equal treatment. FERC is generally opposed to such discretion.
- Alternatively, RTOs can live without such mitigation authority and rely on section 205 filings to address problems. The response to any problem will be delayed.

RTO Authority To Address Problems: Discussion
